

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

<b>JOHN JAMES MOZZANI</b>	:	<b>CIVIL ACTION</b>
	:	
v.	:	
	:	
<b>CAROLYN W. COLVIN,</b> <b>Acting Commissioner of Social Security</b>	:	<b>NO. 14-2578</b>

**MEMORANDUM**

**RESTREPO, J.**

**SEPTEMBER 3, 2014**

Plaintiff, John James Mozzani, filed this action pursuant to 42 U.S.C. § 405(g) for review of the final decision of the Commissioner of Social Security (“Commissioner”), who found that plaintiff was not entitled to disability insurance benefits (“DIB”) under Title II of the Social Security Act (“Act”), 42 U.S.C. §§ 401-433. For the reasons which follow, this action is remanded to the Commissioner for further administrative proceedings.

**DISCUSSION**

Judicial review of the Commissioner’s final decision is limited, and this Court is bound by the factual findings of the Commissioner if they are supported by substantial evidence and decided according to correct legal standards. Allen v. Brown, 881 F.2d 37, 39 (3d Cir. 1989); Coria v. Heckler, 750 F.2d 245, 247 (3d Cir. 1984). Substantial evidence is “such relevant evidence as a reasonable mind might accept as adequate to support a conclusion.” Richardson v. Perales, 402 U.S. 389, 401 (1971). It consists of more than a mere scintilla of evidence but may be somewhat less than a preponderance of the evidence. Cotter v. Harris, 642 F.2d 700 (3d Cir.

1981).

Under the fourth sentence of § 405(g), “[T]he [district] court shall have power to enter . . . a judgment affirming, modifying, or reversing the decision of the Commissioner of Social Security, with or without remanding the cause for a rehearing.” 42 U.S.C. § 405(g) (“Judicial Review”); see Matthews v. Apfel, 239 F.3d 589, 593 (3d Cir. 2001). Here, it appears that the parties are in agreement that it cannot properly be said that the Commissioner’s final decision denying benefits is supported by substantial evidence, in that both parties consent to a remand of the case to the Commissioner. Since it is the function of the Commissioner, not the courts, to weigh the evidence, a remand is warranted to give the Commissioner a further opportunity to properly evaluate all of the evidence of record. See Cotter, 642 F.2d at 707; Giordano v. Shweiker, 551 F. Supp. 997, 999 (E.D. Pa. 1982).

Accordingly, Defendant Commissioner’s uncontested motion is granted, and the matter is remanded to the Commissioner for further proceedings and re-evaluation of the evidence of record. On remand, the Commissioner, through the Appeals Council, should re-evaluate the medical opinions of record and determine whether the claimant is able to perform other work, in accordance with AR 01-1(d). See Def.’s Uncontested Mot. to Remand 1. Since the remand is pursuant to sentence four of 42 U.S.C. § 405(g), the decision of the Commissioner denying benefits to plaintiff is reversed, and a judgment to that effect is entered pursuant to Federal Rule of Civil Procedure 58. See Shalala v. Schaefer, 113 S. Ct. 2625, 2629 (1993).

An appropriate Order and Judgment follows.

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**CAROLYN W. COLVIN,  
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**CIVIL ACTION**

**NO. 14-2578**

**ORDER**

**AND NOW**, this 3rd day of September, 2014, upon consideration of Plaintiff's Brief and Statement of Issues in Support of Request for Review and Defendant Commissioner's Uncontested Motion to Remand, for reasons provided in the accompanying Memorandum, it is hereby **ORDERED** that:

1. Defendant Commissioner's Uncontested Motion to Remand is **GRANTED**;
2. The matter is **REMANDED** to the Commissioner, pursuant to sentence four of 42 U.S.C. § 405(g), for further proceedings consistent with the accompanying Memorandum and Defendant's Uncontested Motion to Remand.

BY THE COURT:

s/ L. Felipe Restrepo  
L. FELIPE RESTREPO  
UNITED STATES DISTRICT JUDGE

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Acting Commissioner of Social Security**

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**J U D G M E N T**

**AND NOW**, this 3<sup>rd</sup> day of September, 2014, it is hereby **ORDERED** that **JUDGMENT** is entered **REVERSING** the final decision of the Commissioner of Social Security and **REMANDING** the matter to the Commissioner, pursuant to sentence four of 42 U.S.C. § 405(g), for further proceedings consistent with the accompanying Memorandum and Order signed this same date. The Clerk shall close this case for statistical purposes.

BY THE COURT:

s/ L. Felipe Restrepo  
L. FELIPE RESTREPO  
UNITED STATES DISTRICT JUDGE